



SN 09/717,433

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Lou Leonardo et al.	Examiner:	Daniel Kesack
Serial No.:	09/717,433	Group Art Unit:	3691
Filed:	November 20, 2000	Docket No.:	2043.023US1
Title:	METHOD AND SYSTEM FOR DEALING WITH NON-PAYING BIDDERS RELATED TO NETWORK-BASED TRANSACTIONS		

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Applicants request review of the final rejection in the above-identified application mailed on Final Office Action mailed May 8, 2007. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated below:

**§103 Rejection of the Claims**

Claims 1, 4-5, 8, 11-12, 15, 18-19, 21 and 24-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the SquareTrade website (as viewed on the WayBack Machine from May 5, 2000; hereinafter SquareTrade) in view of eBay (as viewed on the WayBack Machine from October 12, 1999 ; hereinafter eBay).

Applicants respectfully submit that the rejection of claims 1, 4-5, 8, 11-12, 15, 18-19, 21 and 24-25 under 35 U.S.C. § 103 is defective for the reason that prior art references when combined do not teach or suggest all of the claim limitations of the independent claims of the present application.

Claim 1 includes the following limitation:

*updating a record associated with the party if the complaint is not resolved, the record indicating a count of failed transactions related to the party.*

The Final Office Action, in rejecting claim 1, contends that the above limitation is taught or suggested by eBay which describes a Feedback Forum (eBay, page 1). The Feedback Forum may be used by users on eBay to leave comments about other users (Id.). The Feedback Forum provides for an official “reputation” (Id.) for each user. Specifically, the Feedback Forum maintains, for each user, a Feedback Profile and a Feedback Rating. The Feedback Profile includes comments about the user that have been left by other users (Id.). Comments may be about anything (Ebay, page 2). Each comment may be a positive comment worth +1 point, a neutral comment worth 0 points, or a negative comment worth -1 point. The Feedback Rating is a summation of the point values associated with the respective comments in the Feedback Profile. For example: “Skippy (125)” means that a user named Skippy is associated with 125 positive comments (Ebay, page 1).

Claim 1 requires updating a record associated with a party if a complaint is not resolved, the record indicating a count of failed transactions related to the party. In contrast, eBay merely describes a profile that includes comments and a rating. The comments may be about anything. The rating is a summation of the point values that correspond to the respective comments. Accordingly, eBay cannot be said to teach or suggest the limitations of claim 1.

The Final Office Action states the following:

The reference describes the operation [“point balance of comments”] on page 3, “If you were treated poorly, try to resolve the problem first by contacting the other person... If things are still not resolved, you may leave a negative comment.” Taking this into consideration, according to the feedback system, if the problem is not resolved, the user updates a record (feedback rating) associated with the party (user), wherein the record indicates a count of failed transactions related to the party.<sup>1</sup>

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<sup>1</sup> Final Office Action, Page 4

The Applicants respectfully disagree for the reason that a negative comment cannot be said to denote a failed transaction. Specifically, a negative comment may pertain to successful transaction, which nonetheless is not entirely satisfactory to a party. For example, a payment may have been made and a product may have been shipped, but the shipping may have been slow or delayed. Accordingly, a negative comment regarding slow or delayed shipping does not denote a failed transaction. Another, example may include the delivery of a product that is not in a state advertised.

To be sure, the Applicants reviewed feedback on the eBay website and found the following “negative comments”:

“would not answer e-mail, slow shipping, will not deal with again!”<sup>2</sup>

"Book pages very faded & one falling out. Would not have bid if described right.”<sup>3</sup>

The above comments from the eBay website cannot be said to denote a failed transaction. For example, the first comment is negative with regard to slow shipping notwithstanding the transaction being successful. Further for example, the second comment is negative with regard to the condition of the book notwithstanding the transaction being successful.

The Final Office Action further states the following:

The fact that the feedback rating, or record, is not simply a discrete count of failed transactions does not distinguish the claim language over the prior art reference. The “record” of the eBay reference does, in fact, indicate a count of failed transactions. The eBay reference teaches that the record can be accessed in order to view all feedback that a user has received (page 2). According to this teaching, a user may view the complete record of another user, wherein the complete record indicates failed transactions associated with the user, denoted by “negative comments” left about the user.<sup>4</sup>

The applicants respectfully disagree. Specifically, viewing a record of a user which may include hundreds of comments over scores of webpages, the respective

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<sup>2</sup> Ebay website, User Id - deltadelta48 (July 9, 2007).

<sup>3</sup> Ebay website, User Id - akdawghouse (July 9, 2007).

<sup>4</sup> Final Office Action, Page 4.

contents of which may be about anything, fails to suggest, much less teach a count of failed transactions related to the party, as required by the claim 1.

The above remarks are also applicable to independent claims 8, 15, and 21.

In addition, if an independent claim is nonobvious under 35 U.S.C. § 103 then, any claim depending therefrom is nonobvious and rejection of claims 4-5, 11-12, 18-19 and 24-25 under 35 U.S.C. § 103 is also addressed by the above remarks.

Claims 2-3, 9-10, 16-17 and 22-23 were rejected under 35 USC § 103(a) as being unpatentable over SquareTrade in view of eBay, as applied to claims 1, 8, 15 and 21 above, and further in view of the article UAUTOBID ("UAUTOBID.com, Inc., Introduces the Capability to Purchase Specific Vehicles Online").

Claims 2-3 depend on independent claim 1. Claims 9-10 depend on independent claim 8. Claims 16-17 depend on independent claim 15. Claims 22-23 depend on independent claim 21. If an independent claim is nonobvious under 35 U.S.C. § 103 then, any claim depending therefrom is nonobvious and rejection of claims 2-3, 9-10, 16-17 and 22-23 under 35 U.S.C. § 103 is also addressed by the above remarks.

Claims 6, 13, 20 and 26 were rejected under 35 USC § 103(a) as being unpatentable over SquareTrade in view of eBay as applied to claims 1, 8, 15 and 21 above, and further in view of Esposito (U.S. 6,587,838; hereinafter Esposito).

Claim 6 depends on independent claim 1. Claim 13 depends on independent claim 8. Claim 20 depends on independent claim 15. Claim 26 depends on independent claim 21. If an independent claim is nonobvious under 35 U.S.C. § 103 then, any claim depending therefrom is nonobvious and rejection of claims 6, 13, 20 and 26 under 35 U.S.C. § 103 is also addressed by the above remarks.

In summary, SquareTrade in combination eBay in combination with UAUTOBID in combination with Esposito does not teach or suggest each and every limitation of the independent claims 1, 8, 15, and 21 as required to support rejections of the independent claims of the present application under 35 U.S.C. § 103.

In summary, Applicants believe that all rejections presented in the Final Office Action have been fully addressed and withdrawal of these rejections is respectfully requested.

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**CONCLUSION**

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-278-4046 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

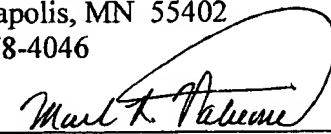
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By their Representatives,

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Date August 8, 2007

By

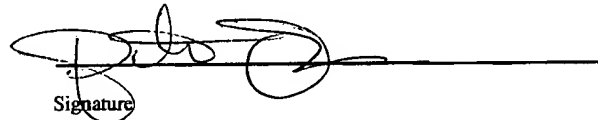


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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 8 day of August 2007.

Peter Rebutoni

Name

  
Signature